

CHAPTER 307—LIABILITY OF WATER CARRIERS

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SECTION 30701

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30701	(no source).	

This chapter codifies the Act of February 13, 1893 (ch. 105, 27 Stat. 445) (commonly known as the Harter Act). Changes are made to simplify, clarify, and modernize the language and style, but the intent is that these changes should not result in changes in substance.

A definition of “carrier” is added based on language appearing in various provisions of the Harter Act. The definition avoids the need to repeat in various sections of this chapter the list of persons to whom the requirements and restrictions of this chapter apply, and it ensures that the list of persons is consistent in the chapter.

SECTION 30702

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30702(a)	(no source).	
30702(b)	(no source).	
30702(c)	46 App.:195.	Feb. 13, 1893, ch. 105, § 7, 27 Stat. 446.

Subsection (a) is added based on language appearing in various source provisions restated in this chapter. The word “carriage” is substituted for “transporting”, and the word “goods” is substituted for “merchandise or property”, to use the same terminology as in the Carriage of Goods By Sea Act (Apr. 16, 1936, ch. 229, 49 Stat. 1207). The words “to or from any port in the United States” are substituted for “from or between ports of the United States and foreign ports” in 46 App. U.S.C. 190 and 193, “from or between ports of the United States of America and foreign ports” in 46 App. U.S.C. 191, and “to or from any port in the United States of America” in 46 App. U.S.C. 192, for clarity and consistency. See *Knott v. Botany Mills*, 179 U.S. 69 (1900).

Subsection (b) is added to ensure that the relationship between this chapter, which codifies and replaces the Harter Act, is the same as the pre-codification relationship between the Harter Act and the Carriage of Goods By Sea Act. See also section 16(d) of the

bill, which provides that “[f]or purposes of determining whether one provision of law supersedes another based on enactment later in time, the date of enactment of a provision codified by this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision that is codified”. The Carriage of Goods By Sea Act is not being included in this codification bill to avoid any possible misperception by any other nation that the United States is revising that law, which is a concern in light of current international negotiations relating to the carriage of goods by sea. That Act will remain untouched by this bill and (following enactment of this bill) will be reprinted in the United States Code in its current statutory form as a note under the first section of this chapter.

SECTION 30703

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30703	46 App.:193.	Feb. 13, 1893, ch. 105, § 4, 27 Stat. 445.

In subsection (a), the words “transporting merchandise or property from or between ports of the United States and foreign ports” are omitted because of section 30702(a) of the revised title. The word “lawful” (which modifies “merchandise”) is omitted as unnecessary.

In subsection (b)(2), the words “or weight” are added for consistency with the requirement to state whether it is the carrier’s or shipper’s weight.

In subsection (b)(3), the word “order” is omitted as redundant to “condition”. The words “delivered to and received by . . . for transportation” are omitted as unnecessary.

SECTION 30704

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30704	46 App.:190.	Feb. 13, 1893, ch. 105, § 1, 27 Stat. 445.

The words “transporting merchandise or property from or between ports of the United States and foreign ports” are omitted because of section 30702(a) of the revised title. The words “may not” are substituted for “It shall not be lawful . . . to”, the word “provision” is substituted for “clause, covenant, or agreement”, and the word “improper” is substituted for “negligence, fault, or failure in proper”, to eliminate unnecessary words. The words “any and all lawful” and “committed to its or their charge” are omitted as unnecessary. The words “Any such provision is void” are substituted for “Any and all words or clauses of such import inserted in bills of lading or shipping receipts shall be null and void and of no effect” to eliminate unnecessary words.

SECTION 30705

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30705	46 App.:191.	Feb. 13, 1893, ch. 105, § 2, 27 Stat. 445.

In subsection (a), before clause (1), the words “transporting merchandise or property from or between ports of the United States of America and foreign ports” are omitted because of section 30702(a) of the revised title. The words “may not” are substituted for “It shall not be lawful . . . to”, the word “provision” is substituted for “covenant or agreement”, and the words “lessening or avoiding its obligation” are substituted for “whereby the obligations . . . shall in any wise be lessened, weakened, or avoided”, to eliminate unnecessary words.

In clause (1), the words “and capable of performing her intended voyage” are omitted as unnecessary.

In clause (2), the word “supply” is substituted for “provision, and outfit” to eliminate unnecessary words.

The words “or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo and to care for and properly deliver same” are omitted as covered by section 30704 of the revised title.

Subsection (b) is added for clarity and for consistency with section 30704 of the revised title.

SECTION 30706

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30706	46 App.:192.	Feb. 13, 1893, ch. 105, § 3, 27 Stat. 445.

This section is restated as two subsections to clarify that the exercise of due diligence in making the vessel seaworthy is a condition only to the defense of error in navigation or management restated in subsection (a). See *May v. Hamburg-Amerikanische Packetfahrt Aktiengesellschaft (The Isis)*, 290 U.S. 333, 353 (1933). The words “transporting merchandise or property to or from any port in the United States of America” are omitted because of section 30702(a) of the revised title.

SECTION 30707

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30707	46 App.:194.	Feb. 13, 1893, ch. 105, § 5, 27 Stat. 446.

In subsection (a), the words “civil penalty” are substituted for “penalty” for consistency in the revised title. The words “and who refuses to issue on demand the bill of lading herein provided for” are omitted as unnecessary.

In subsection (b), the words “A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found” are substituted for “such vessel may be libeled therefor in any district court of the United States” for clarity and to modernize the language.